



US EPA RECORDS CENTER REGION 5



486171

The University of Dayton

September 26, 1996

Cathleen R. Martwick
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA
77 West Jackson CM-29A
Chicago, IL 60604

Re: Request for Information Pursuant to Section 104 (e) of CERCLA for the Powell Road Landfill in Huber Heights, Ohio.

Dear Ms. Martwick:

In response to your request for information for the period between January 1, 1959 through December 31, 1985, regarding the Powell road Landfill, located at 4060 Powell Road in Huber Heights, Ohio, the following information is offered to you corresponding to the questions asked in the August 19, 1996 certified letter. In trying to determine the exact date the letter was received, my office contacted Mr. Jeffrey Cahn, Associate Regional Counsel on September 19, 1996 who set forth an agreed due date of September 30, 1996. Please note this date is not an extension of time.

1. Sandra F. Kulik, C.S.P., Environmental Safety Administrator, University of Dayton

John E. Hart, JD, Director of Legal Affairs/University Counsel, University of Dayton

Ken Soucy, Director of Purchases and Business Services, University of Dayton

Sigmund W. Brzezicki, Purchasing Agent and Property Administrator, University of Dayton Research Institute

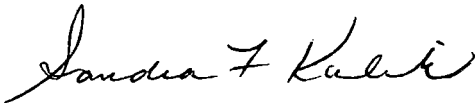
Herman A. Cole, Director of Facilities Management, University of Dayton
2. No documents were found for the time period between January 1, 1959 to December 31, 1985 that relate to these Requests.
3. No other persons can be identified at this time who could be able to supply additional information.
4. OHD073134025, IL9391135515
5. We have no knowledge of any persons regarding these types of activities.
6. The University of Dayton, currently operating at 300 College Park, Dayton Ohio, Montgomery County is owned by the Society of Mary.
7. The University's records are inconclusive as to who had responsibility for generation, transportation or disposal of hazardous substance during the time period listed above.
8. The University of Dayton has used several types of chemicals in both the academic

laboratories for teaching and in our research facilities. During the time between 1959 and 1985, records are inconclusive as to what specific chemicals were used and as to how they were disposed. Prior to 1987 the University did not have a formal hazardous materials management program and each department was responsible for its own materials. Because of this, we can not find any written records indicating what was used and when.

9. The University of Dayton did not accept any hazardous materials from any other person for treatment or disposal at the site.
10. During the period of time mentioned above, the University of Dayton did use the services of Koogler-Suburban for the disposal of normal trash and garbage. Our records are inconclusive as to whether hazardous materials were ever shipped for disposal to the Site.
11. The University of Dayton has no coverage nor has ever had any insurance coverage for Pollution. All previous and current liability insurance policies carry a "pollution exclusion clause" in each.
12. See enclosure which is marked as company confidential.
13. See enclosure which is marked as company confidential.
14. NA
15. NA
16. NA
17. Sandra F. Kulik, C.S.P., Environmental Safety Administrator, University of Dayton (513) 229-4333

If you have any further questions, please contact me.

Sincerely,



Sandra F. Kulik, C.S.P.
Environmental Safety Administrator

Cc: John Hart, Director of Legal Affairs/University Counsel

4/17/83

11/1/83

CERTIFICATE OF AMENDMENT
TO ARTICLES OF INCORPORATION
OF
UNIVERSITY OF DAYTON

WILLIAM J. FERREE, President, and RAYMOND A. ROESCH, Secretary of UNIVERSITY OF DAYTON, an Ohio corporation organized not for profit, do hereby certify that at a meeting of the members of said corporation duly called and held on the 4th day of November, 1970, at which meeting a quorum was present, and by the affirmative vote of a majority of the members present thereat, the following resolution of amendment was adopted:

RESOLVED, That the following Amended Articles of Incorporation be, and the same are hereby, adopted to supersede and take the place of the existing Articles of Incorporation and all amendments thereto:

AMENDED ARTICLES OF INCORPORATION
OF
UNIVERSITY OF DAYTON

FIRST: The name of the corporation shall be UNIVERSITY OF DAYTON.

SECOND: The place in the State of Ohio where the principal office is located is the City of Dayton, Montgomery County.

THIRD: The purposes of the corporation are as follows:

The purpose or purposes for which said corporation is formed are establishing, maintaining and conducting, under the influence of religion, an institution of learning for the purpose of offering instructions in the arts and sciences; promoting education in all departments of learning and knowledge, and especially in those branches usually comprehended in academic, collegiate and university courses; promoting the work of education, religion, research, public service and charity; acquiring and holding for such purposes money, real estate and other property necessary or proper to carry out said objects; and doing any and all things and engaging in such enterprises necessary or incident to the accomplishment of such purposes.

FOURTH: No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, trustee, officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provision of this certificate, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170 (c) (2) of such Code and Regulations as they now exist or as they may hereafter be amended.

FIFTH: The members of the Corporation shall now consist of: (1) those members of the Society of Mary (Marianists) designated as members of the Corporation by the governing board of Marianists of Ohio, Inc., and (2) the Chairman, Vice Chairman and Secretary of the Board of Trustees of the University of Dayton.

SIXTH: The following persons, together with their addresses, shall serve as Trustees until the annual meeting or other meeting called to select Trustees.

John J. Jansen, 4100 Patterson Road, Dayton, Ohio 45430
Raymond A. Roesch, c/o University of Dayton, College Park Avenue, Dayton, Ohio 45409
Charles L. Collins, c/o University of Dayton, College Park Avenue, Dayton, Ohio 45409
William J. Ferree, 2765 Ridgeway Road, Dayton, Ohio 45419
William A. Bruggeman, 2765 Ridgeway Road, Dayton, Ohio 45419

SEVENTH: Meetings of the voting members or Trustees may be held within or without the State of Ohio.

EIGHTH: These Amended Articles of Incorporation take the place of and supersede the existing Articles of Incorporation.

IN WITNESS WHEREOF, WILLIAM J. FERREE, President, and RAYMOND A. ROESCH, Secretary, of University of Dayton, acting for and on behalf of said corporation, have hereunto subscribed their names this 4th day of November, 1970.

(s) William Ferree
President

(s) Raymond A. Roesch
Secretary

Approved by Ohio Secretary of State: November 9, 1970.

ARTICLES OF INCORPORATION
OF
UNIVERSITY OF DAYTON

The undersigned, a majority of whom are citizens of the United States, desiring to form a corporation, not for profit, under the General Corporation Act of Ohio, do hereby certify:

- First: The name of the corporation shall be UNIVERSITY OF DAYTON.
- Second: The place in this State where the principal office of the corporation is to be located is Dayton.
- Third: The purpose or purposes for which said corporation is formed are establishing, maintaining and conducting, under the influence of religion, an institution of learning for the purpose of offering instructions in the arts and sciences; promoting education in all departments of learning and knowledge, and especially in those branches usually comprehended in academic, collegiate and university courses; promoting the work of education, religion, research, public service and charity; acquiring and holding for such purposes money, real estate and other property necessary or proper to carry out said objects; and doing any and all things and engaging in such enterprises necessary or incident to the accomplishment of such purposes.
- Fourth: The members of this corporation shall consist solely of members of the Society of Mary, an association of persons operating throughout the world in the interest of religion, education and charity, and said corporation shall be governed in its administration and operation by trustees and officers selected from and appointed by said Society of Mary from said members; said trustees and other administrative and governing officers shall always be subject to removal and appointment under the rules, usages, customs and precedents established or promulgated by said Society of Mary from time to time.
- Fifth: The following persons shall serve said corporation as trustees until the first annual meeting or other meeting called to select trustees:
- John A. Elbert, Mount Saint John Normal School, Dayton, Ohio
Paul A. Sibbing, Mount Saint John Normal School, Dayton, Ohio
Francis X. Neubeck, Mount Saint John Normal School, Dayton, Ohio
George J. Renneker, University of Dayton, Dayton, Ohio
William J. Ferree, Mount Saint John Normal School, Dayton, Ohio

March 5, 1952

BYLAWS OF THE BOARD OF TRUSTEES

UNIVERSITY OF DAYTON

Preamble

The Board of Trustees of the University of Dayton has been established by the Members of the University of Dayton Corporation under the provisions of the Articles of Incorporation of the University of Dayton, as amended, the Bylaws of the Corporation, and the Ohio Statutes for Non-Profit Corporations to exercise final control over all matters pertaining to the governance of the University except where such authority has been specifically reserved to the Members of the Corporation. These Bylaws, when adopted by the Board of Trustees, shall determine the operational procedures for the Board within the limits prescribed by said Articles of Incorporation, as amended, Bylaws of the Corporation, and the Constitution of the University of Dayton.

ARTICLE I: MEMBERSHIP AND ELECTION

Section 1: Membership and Election

- (a) The membership of the Board of Trustees and election thereto shall be determined according to the provisions of Article V of the Constitution of the University of Dayton and Article IV of the Bylaws of the Corporation.
- (b) The total number of members of the Board of Trustees is determined from time to time by the Members of the Corporation.
- (c) The Committee on Trustees shall prepare a list of names of candidates for nomination as Trustees and submit such list to the Chairman at least five days prior to the Annual Meeting of the Members of the Corporation.
- (d) When approved by the Members of the Corporation a list of nominees shall be submitted to the Board of Trustees for the election of Trustees at their February Meeting.

ARTICLE II: MEETINGS

Section 1: Regular and Special Meetings

- (a) Unless otherwise decided by its members the Board of Trustees shall hold regular meetings in October, February, and May at such date, time, and place as may be fixed by the Board.
- (b) The May Meeting shall be designated as the Annual Meeting.
- (c) Special meetings of the Board of Trustees shall be called by the Chairman of the Board or the President of the University or upon the request of any five Trustees.
- (d) Written notice of all meetings, including the agenda, shall be mailed by the Secretary to each member of the Board at least ten days prior to the date of the meeting.

Section 2: Quorum

- (a) A quorum for the transaction of business by the Board shall consist of a majority of the total number of members of the Board.

Section 3: Conduct of Meetings

- (a) All meetings shall be conducted in accord with parliamentary procedure outlined in Roberts Rules of Order, as revised, or other procedure adopted by the Board.
- (b) The usual order of business at meetings of the Board shall be as follows:
 - (1) Call to order
 - (2) Approval of minutes of last meeting
 - (3) Report of the Chairman
 - (4) Committee reports
 - (5) Unfinished business
 - (6) New business
 - (7) Adjournment

Section 4: Voting Procedures

- (a) Decisions by vote of the Board members in ordinary matters shall require a majority vote of those present provided a quorum is present.

ARTICLE III: OFFICERS

Section 1: Election, Term of Office, and Removal

- (a) The Officers of the Corporation and the Board of Trustees, as defined in Article V, Section 8 of the Constitution, shall be elected from among the membership of the Board by majority vote of the Trustees present and constituting a quorum at the Annual Meeting of the Board of Trustees.
- (b) All officers shall be elected to office for the remainder of their current terms of appointment as Trustees.
- (c) There shall be no limit to the number of times the same person may be elected to the same or any other office.
- (d) Any person elected an officer may be removed at any regular or special meeting by vote of the majority of the Trustees present and constituting a quorum.

Section 2: Duties of Officers

- (a) The Chairman shall preside at all meetings of the Board and shall decide all questions of order.
- (b) It shall be his duty to see that the Bylaws of the Board are complied with and that the special orders, resolutions, and directions of the Board are properly executed.
- (c) He shall serve as Chairman of the Executive Committee of the Board of Trustees.
- (d) He shall appoint the members of all committees of the Board, except the Executive Committee, and shall perform such other duties as may be, from time to time, assigned to him by the Board.
- (e) The Vice Chairman shall serve in the absence of the Chairman and shall assist the Chairman at the latter's request.
- (f) The Secretary shall be responsible for recording and distributing minutes of all meetings of the Board, issuing notice of meetings, keeping records of attendance, and handling all correspondence for the Board.
- (g) He shall be the custodian of the Seal of the University and shall have authority to attest to all official documents and instruments of the University.

Section 3: Vacancy in Office

- (a) In the event of a vacancy in the office of Chairman, the Vice Chairman shall serve as Chairman until a new Chairman has been appointed or elected.
- (b) In the event of a vacancy in the office of Vice Chairman or Secretary, the vacancy shall be filled by election at the next meeting of the Board following the existence of the vacancy.

ARTICLE IV: COMMITTEES

Section 1: Executive Committee

- (a) Members of the Executive Committee, except the Chairman of the Board and the President of the University, both of whom are ex officio members, shall be elected for one year terms of office at the Annual Meeting with eligibility for re-election.
- (b) The number of members of the Committee shall be determined by the Board in accord with Article V, Section 9 of the Constitution.
- (c) The Chairman of the Board shall be the Chairman of the Executive Committee and the President of the University shall be the Vice Chairman.
- (d) Vacancies which occur among the elected members of the Committee for any reason, except the expiration of time, shall be filled for the unexpired term by election at the next meeting of the Board following the existence of the vacancy.
- (e) Meetings of the Executive Committee shall be called when necessary by the Chairman of the Board or the President of the University.
- (f) A majority of the total number of members of the Committee, including ex officio members, shall constitute a quorum.
- (g) In the intervals between meetings of the Board of Trustees, the Executive Committee shall have full power to take each and every action which the Trustees are authorized to take, except for the limitations stated in Article V, Section 9 of the Constitution of the University of Dayton.

Section 2: Committee on Trustees

- (a) A Committee on Trustees shall be appointed by the Chairman of the Board to perform the following duties:
 - (1) to prepare and submit to the Chairman of the Corporation a list of candidates for nomination to the Board of Trustees of the University of Dayton in accord with the provisions of Article I of these Bylaws;
 - (2) to maintain a list of candidates for nomination to the Board through a continuing search for individuals with special talents for service to the University as Trustees;
 - (3) to assist the Chairman of the Board in selecting Trustees and other persons to serve on committees of the Board;
 - (4) to conduct an orientation program for new Trustees with the assistance of selected faculty and students of the University and to promote the continued education of Trustees through seminars and meetings designed to confront the major issues facing the University;
 - (5) to submit an annual report to the Board on the Committee's assessment of the effectiveness of Board operations and to recommend means for improvement.

Section 3: Other Committees

- (a) There shall be other standing and ad hoc committees as the Trustees may from time to time determine.

ARTICLE IV: COMMITTEES (Continued)

Section 3: Other Committees (Continued)

- (b) The President of the University and the Chairman of the Board of Trustees shall be ex officio members of all standing committees.
- (c) Persons other than Trustees, especially members of the University Community, such as administrators, faculty, and students should normally be appointed to any committee except the Executive Committee.

Section 4: Committee Meetings

- (a) Meetings of the committees of the Board shall be held upon call of the committee chairman.
- (b) Written notice of the committee meetings, including the agenda, shall be mailed to each member of the committee at least five days prior to the date of the meeting.
- (c) Minutes of each committee meeting shall be available to all members of the Board on request.

ARTICLE V: EXECUTIVE OFFICERS OF THE UNIVERSITY

Section 1: Selection of the President

- (a) The President of the University shall be appointed by the Board of Trustees for an indefinite term of office.
- (b) He shall be elected by two-thirds vote of the total membership of the Board of Trustees from a list of candidates drawn up in a manner determined by the Board of Trustees.
- (c) The President of the University must be a professed member of the Society of Mary.
- (d) He may be removed from office at any time by the affirmative vote of two-thirds of the total number of Trustees then in office.

Section 2: Other Executive Officers of the University

- (a) Other Executive Officers of the University shall be appointed by the Board of Trustees, upon the recommendation of the President, for indefinite terms of office, and in accord with the provisions of Article VI, Section 3 of the Constitution.
- (b) Interim appointments of such officers may be approved by the Executive Committee, when necessary, between meetings of the Board of Trustees.
- (c) Such appointments shall then be submitted for approval at the next meeting of the Board.
- (d) The Executive Committee of the Board shall have authority to approve the removal from office of an Executive Officer on the recommendation of the President.
- (e) Such removal as well as the resignation of an Executive Officer shall be reported at the next Board meeting.
- (f) It shall be the prerogative of the Trustees, at their pleasure, to invite the Executive Officers of the University to attend Board meetings.

ARTICLE VI: POLICY MANUALS

Section 1: University Policy Manual

- (a) The Board of Trustees, as the body exercising final authority for the approval of all policies affecting the entire University, shall determine the procedure for maintaining an official Policy Manual which shall be brought up to date within a reasonable time following each meeting of the Board of Trustees.
- (b) The custodian of the official Policy Manual for the University shall be the President of the University.
- (c) At his discretion copies of the Manual shall be made available to other University personnel.

Section 2: Unit Policy Manuals

- (a) It shall be the duty of each administrative official of the University to maintain an up-to-date Policy Manual covering all official policies directly related to the organizational area over which he has jurisdiction.
- (b) This directive shall apply to Executive Officers of the University, Deans, heads of major academic units, administrators of instructional departments, and directors of all supporting units of the University.
- (c) The President of the University shall be responsible for determining that such Policy Manuals are maintained in appropriate manner.
- (d) This directive is not intended to apply to council or committee bylaws, handbooks, guidelines, or similar regulations which are primarily designed to provide the means for carrying out established policies.

ARTICLE VII: AMENDMENTS

Section 1: Procedure

- (a) These Bylaws may be amended or repealed by a two-thirds vote of the Board members present at any regular or special meeting, provided that notice of such proposed amendment has been given to the Trustees with the agenda for the meeting.

Approved: November 13, 1970

Amended: August 31, 1972